



## 2001 Legislative Summary

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<http://www.in.gov/idem/busleg/>

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# A Guide to Using this Legislative Summary

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## How This Summary Should Be Used:

The “IDEM 2001 Legislative Summary” highlights the main points of legislation from the 2001 session of the Indiana General Assembly. The summary focuses only on those topics that directly affect IDEM activities or is information that may be of interest.

This summary is organized by topic according to programs. Please note that several topics may affect more than one program, but are listed only in the program that is most affected.

This summary is provided as a reference guide. It highlights the main points of each topic and directs you to the location of the exact language in the enrolled act. Please note that the summary for each topic is not exhaustive. It should not take the place of looking at the actual language in the act. It is recommended that you use the summary only as an initial reference, then refer to the actual act for the exact wording and context.

## Acronyms Used in This Summary:

CAGIT	County Adjusted Gross Income Tax
COIT	County Option Income Tax
ELTF	Underground Petroleum Storage Tank Excess Liability Trust Fund
EQSC	Environmental Quality Service Council
FY	Fiscal Year
HCR	House Concurrent Resolution
HEA	House Enrolled Act
HR	House Resolution
IC	Indiana Code
IDEM	Indiana Department of Environmental Management
IDFA	Indiana Development Finance Authority
IDNR	Indiana Department of Natural Resources
ISDH	Indiana State Department of Health
LSA	Legislative Services Agency
MTBE	Methyl Tertiary-Butyl Ether
NH <sub>3</sub>	Anhydrous Ammonia
P.L.	Public Law
SCR	Senate Concurrent Resolution
SEA	Senate Enrolled Act
SR	Senate Resolution
SWMB	Solid Waste Management Board
SWMD	Solid Waste Management District
U.S. EPA	United States Environmental Protection Agency

## How to Use the Reference Information Provided in this Summary

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A reference is provided for each entry in the summary and appears in italics. The reference information will vary as follows:

where to find it in the enrolled act	where to find it in the Indiana Code books
<b>8</b>	<b>8</b>
<b>{ SEA 321, SECTION 2; }</b>	<b>{ IC 13-11-2-193.5 }</b>
<b>{ Effective July 1, 2001 }</b>	
<b>9</b>	
the date the new or amended law becomes effective	

where to find it in the enrolled act	indicates that the provision will not be published in the Indiana Code books; it can be found in the enrolled act, the Indiana Acts, and the Indiana Environmental Statutes book
<b>8</b>	<b>8</b>
<b>{ SEA 121, SECTION 4; }</b>	<b>{ Noncode }</b>
<b>{ Effective May 11, 2001 }</b>	
<b>{ Expires December 31, 2005 }</b>	
<b>9</b>	
the date the noncode provision expires	

# **ALL PROGRAMS:**

## **STATE BIENNIAL BUDGET**

### **IDEM**

*HEA 1001, SECTION 10B; Noncode*

*Effective July 1, 2001*

- Appropriations from the state general fund and specific dedicated funds are made for each IDEM program for the next two state fiscal years (FY 2001-2002 and FY 2002-2003).

### **State Solid Waste Management Fund**

*HEA 1001, SECTION 6B; Noncode*

*Effective July 1, 2001*

- \$1.5 million per fiscal year is transferred from the Department of Commerce's Indiana Recycling Promotion and Assistance Fund to IDEM's State Solid Waste Management Fund.

### **Supplemental Drinking Water and Wastewater Assistance Fund**

*HEA 1001, SECTION 38; Noncode*

*Effective July 1, 2001*

- \$30 million is appropriated for the biennium for Community Wastewater and Drinking Water (*i.e. Supplemental Drinking Water and Wastewater Assistance Fund*) from the Build Indiana Fund.
- Of the \$30 million, \$500,000 shall be used for Crown Point School sewers.

### **Environmental Remediation Revolving Loan Fund**

*HEA 1001, SECTION 118; Adds IC 13-19-5-16*

*Effective July 1, 2001*

- The Indiana Development Finance Authority (IDFA) is directed to establish an account of the Environmental Remediation Revolving Loan Fund for remediation of petroleum contamination. IDFA may deposit appropriations or other money received under IC 13-19-5-16 after June 30, 2001 into this account. Money in this account does not revert to the Environmental Remediation Revolving Loan Fund at the end of a fiscal year.

*HEA 1001, SECTION 119 (a) and (b); Noncode*

*Effective July 1, 2001*

*Expires July 2, 2002*

- \$4.5 million is transferred each fiscal year from the Underground Petroleum Storage Tank Excess Liability Trust Fund (*commonly referred to as the "ELTF"*) to an account of the Environmental Remediation Revolving Loan Fund for remediation of petroleum contamination.

*HEA 1001, SECTION 6B; Noncode*

*Effective July 1, 2001*

- \$5 million for the biennium is appropriated to the Department of Commerce for the Environmental Remediation Revolving Loan Fund.

### **Oil and Gas Environmental Fund for Plugging Abandoned Oil Wells**

*HEA 1001, SECTION 119 (c) and (d); Noncode*

*Effective July 1, 2001*

*Expires July 2, 2002*

- \$500,000 is transferred each fiscal year from the Underground Petroleum Storage Tank Excess Liability Trust Fund (ELTF) to the Oil and Gas Environmental Fund for plugging abandoned oil wells.

### **Lake Michigan Environmental Trust Fund**

*HEA 1001, SECTION 38; Noncode*

*Effective July 1, 2001*

- \$500,000 is appropriated for the biennium to the Lake Michigan Environmental Trust Fund from the Build Indiana Fund.

### **Little Calumet River Basin Commission**

*HEA 1001, SECTION 38; Noncode*

*Effective July 1, 2001*

- \$5.5 million is appropriated for the biennium to the Little Calumet River Basin Commission from the Build Indiana Fund.

### **Clean Water Indiana**

*HEA 1001, SECTION 38; Noncode*

*Effective July 1, 2001*

- \$2 million is appropriated for the biennium to the Clean Water Soil Conservation and Water Districts (*i.e. Clean Water Indiana*) from the Build Indiana Fund.

### **TECHNICAL CORRECTIONS**

*SEA 174, SECTIONS 10-22 and 49-51*

*Various effective dates*

- Refer to the “Outline of Technical Corrections in SEA 174 That Affect IDEM” on page 36 of this summary.

### **RULES EXEMPT FROM SUNSET PROVISION**

*HEA 2147, SECTION 3; Adds IC 13-14-9.5-1.1*

*Effective May 2, 2001*

- The automatic expiration of an administrative rule on January 1 of the 7<sup>th</sup> year after the year in which the rule takes effect does not apply to the following:
  - 1) A rule that is required to receive or maintain:
    - A) delegation;
    - B) primacy; or
    - C) approval;for state implementation or operation of a program established under federal law.
  - 2) A rule that is required to begin or continue receiving federal funding for the implementation or operation of a program.
- In the 7<sup>th</sup> year after the effective date of a rule or an amendment to a rule described above, IDEM shall publish a notice in the Indiana Register. The notice may contain a list of several rules that have been effective for seven years. A separate notice must be published for each board with rulemaking authority. A notice must provide for the following:

- 1) A written comment period of at least 30 days.
  - 2) A request for comments on specific rules that should be reviewed through the regular rulemaking process under IC 13-14-9.
  - 3) A notice of public hearing before the appropriate board.
- IDEM shall:
    - 1) prepare responses to all comments received during the comment period; and
    - 2) provide all comments and responses to the board during the public board hearing.
  - The board, after considering the written comments and responses, as well as testimony at the public hearing, shall direct IDEM on whether additional rulemaking actions must be initiated to address concerns raised to the board.
  - For the rules described above that are effective on or before July 1, 2001, the notice shall be published in the Indiana Register before December 31, 2008.

*HEA 2147, SECTION 4; Amends IC 13-14-9.5-2*

*Effective July 1, 2001*

- The date for the automatic expiration of an administrative rule is extended each time the rule is amended.
- The amended rule expires on January 1 of the 7<sup>th</sup> year after the year in which the amendment takes effect.
- A rule that is not amended by a rule that takes effect after December 31, 1995 and before January 1, 2002, expires by January 1, 2002.

*HEA 2147, SECTION 1; Adds IC 4-22-2.5-1.1*

*Effective May 2, 2001*

*HEA 2147, SECTION 2; Amends IC 4-22-2.5-2*

*Effective July 1, 2001*

- Parallel language on the exemption to the seven year expiration was also added to the administrative rulemaking process provisions found in IC 4-22, except that the provisions on publishing notice in the Indiana Register and preparing responses to comments only apply to IDEM environmental board rules.

## **ENVIRONMENTAL QUALITY SERVICE COUNCIL (EQSC) RE-ESTABLISHMENT**

*SEA 121, SECTION 4; Noncode*

*Effective May 11, 2001*

*Expires December 31, 2005*

- The EQSC is re-established to replace the provision that last re-established the EQSC, which expired on December 31, 2000.
- The EQSC membership is reduced from 24 to 18 members. The number of business and industry representatives was reduced from 4 to 2. The number of local government representatives was reduced from 4 to 2. The number of general public representatives was reduced from 2 to 1. The number of agricultural representatives was reduced from 2 to 1.
- The EQSC consists of 18 members as follows:
  - 4 members of the Senate
  - 4 members of the House
  - 1 the commissioner of IDEM or the commissioner's designee (as a nonvoting member)
  - 2 business and industry
  - 2 local government (1 may be a solid waste management district director)
  - 2 environmental (1 may be a solid waste management district director)
  - 1 general public

1 semipublic permittee

1 agriculture

- Individuals who were lay members on December 31, 2000 shall continue to serve on the EQSC until new members are appointed.
- All appointments are valid for two years.
- The EQSC must meet at least one time a year.
- The chairman of the EQSC may designate subcommittees to meet between committee meetings and report back to the full council.
- The EQSC shall do the following:
  - 1) Study issues designated by the Legislative Council.
  - 2) Advise the commissioner of the department on policy issues decided upon by the council.
  - 3) Review the mission and goals of the department and evaluate the implementation of the mission.
  - 4) Serve as a council of the general assembly to evaluate:
    - A) resources and structural capabilities of the department to meet IDEM's priorities; and
    - B) program requirements and resource requirements for the department.
  - 5) Serve as a forum for citizens, the regulated community, and legislators to discuss broad policy directions.
  - 6) Submit a final report to the legislative council that contains at least the following:
    - A) An outline of activities of the council.
    - B) Recommendations for any IDEM action.
    - C) Recommendations for any legislative action.
- IDEM shall report to the EQSC each month concerning the following:
  - 1) Permitting programs and technical assistance.
  - 2) Proposed rules and rulemaking in progress.
  - 3) The financial status of the agency.
  - 4) Any additional matter requested by the council.

## **REVIEW OF STATE-FUNDED ENVIRONMENTAL TECHNICAL ASSISTANCE**

*Senate Concurrent Resolution (SCR) 58; Not adopted by the Senate or House*

- The Legislative Council is urged to assign to the Environmental Quality Service Council or other appropriate environmental study committee the task of reviewing all efforts that are fully or partially funded by the state related to environmental technical assistance with respect to resource recovery, pollution prevention, clean manufacturing, recycling, nonpoint source pollution, and other environmental issues.

## **LIABILITY OF BOARD MEMBERS**

*HEA 1307, SECTION 1; Amends IC 34-13-2-1*

*HEA 1307, SECTION 2; Amends IC 34-13-3-5*

*HEA 1307, SECTION 4; Amends IC 34-13-4-1*

*Effective May 10, 2001*

- Civil actions relating to acts taken by a board, a committee, a commission, an authority, or another instrumentality of a governmental entity (*i.e. the state or a political subdivision*) may be brought only against the board, the committee, the commission, the authority, or the other instrumentality of a governmental entity. A member of a board, a committee, a commission, an authority, or another instrumentality of a governmental entity may not be named as a party in a civil suit that concerns the acts taken by a board, a committee, a commission, an authority, or another instrumentality of a governmental



entity where the member was acting within the scope of the member's employment. For these purposes, a member of a board, a committee, a commission, an authority, or another instrumentality of a governmental entity is acting within the scope of the member's employment when the member acts as a member of the board, committee, commission, authority, or other instrumentality.

### **SHORELINE ENVIRONMENTAL TRUST FUND**

*HEA 1935, SECTION 1; Adds IC 36-7-13.5*

*Effective July 1, 2001*

- The Shoreline Development Commission is established.
- IDEM is one of 22 members of the commission.
- “Qualifying property” is defined as one or more parcels of land in the corridor (as defined in IC 14-13-3-2) under common ownership, regardless of whether any improvements are located on the land, with respect to which:
  - 1) the:
    - A) land is unused, if there are no improvements on the land; or
    - B) land and improvements are unused;
  - 2) all or a part of each parcel of the land is located within 500 yards of a lake or river; and
  - 3) there are significant obstacles to redevelopment because of any of the following:
    - A) Obsolete or inefficient buildings.
    - B) Aging infrastructure or inefficient utility services.
    - C) Utility relocation requirements.
    - D) Transportation or access problems.
    - E) Topographical obstacles.
    - F) Environmental contamination.
- The Shoreline Environmental Trust Fund is established to provide a source of money for the following:
  - 1) The rehabilitation, redevelopment, and reuse of qualifying property by providing grants to political subdivisions to conduct any of the following activities:
    - A) Identification and acquisition of qualifying property within a political subdivision.
    - B) Environmental assessment of identified qualifying property and other activities necessary or convenient to complete the environmental assessments.
    - C) Remediation of environmental contamination conducted on qualifying property.
    - D) Clearance of real property under IC 36-7-14-12.2 or IC 36-7-15.1-7 in connection with remediation activities.
    - E) Other activities necessary or convenient to return qualified property to full use.
  - 2) The operations of the commission.
- The State Budget Agency shall administer the fund.
- The commission shall:
  - 1) Identify qualifying properties;
  - 2) Prepare a comprehensive master plan for development and redevelopment within the corridor that:
    - A) plans for remediation of environmental contamination;
    - B) accounts for economic development and transportation issues relating to environmental contamination; and
    - C) establishes priorities for development or redevelopment of qualifying properties;
  - 3) Establish guidelines for the evaluation of applications for grants from the fund;

- 4) After reviewing a report from IDEM, refer to the executive committee applications for grants from the fund that the commission recommends for approval;
  - 5) Prepare and provide information to political subdivisions on the availability of financial assistance from the fund;
  - 6) Coordinate the implementation of the comprehensive master plan;
  - 7) Monitor the progress of implementation of the comprehensive master plan; and
  - 8) Report at least annually to the Governor, the Lieutenant Governor, the Legislative Council and all political subdivisions that have territory within the corridor on:
    - A) the activities of the commission; and
    - B) the progress of implementation of the comprehensive master plan.
  - 9) Employ an executive director and other individuals that are necessary to carry out the commission's duties.
- Before a political subdivision may receive a grant from the fund, the political subdivision must submit to IDEM and the commission a grant application and documentation of community and neighborhood comment concerning the use of a qualifying property on which environmental remediation activities will be undertaken after environmental remediation activities are completed.
  - IDEM shall do the following:
    - 1) Upon receipt of a grant application from a political subdivision with respect to a qualifying property, evaluate the technical aspects of the political subdivision's:
      - A) environmental assessment of the property; and
      - B) proposed environmental remediation with respect to the property.
    - 2) Submit to the commission a report of its evaluation.
    - 3) Evaluate the technical aspects of the political subdivision's environmental remediation activities conducted on qualifying properties.
    - 4) Act as a liaison with the U.S. EPA.
  - An executive committee of the commission is established. The executive committee shall determine whether to approve the grants. The executive committee shall develop a priority ranking system for making grants.
  - The executive committee may adopt guidelines or guidance documents to implement these provisions without complying with administrative rulemaking procedures.

## **REGISTRATION OF SOIL SCIENTISTS**

*SEA 93, SECTION 1; Adds IC 25-31.5-2*

*Effective July 1, 2001*

- The Indiana Board of Registration for Soil Scientists is established.

*SEA 93, SECTION 1; Adds IC 25-31.5-3*

*Effective July 1, 2001*

- The Indiana Board of Registration for Soil Scientists is required to determine the qualifications and adopt rules regarding a registered professional soil scientist and a registered associate soil scientist.
- The Indiana Board of Registration for Soil Scientists is required to publish a roster of registered soil scientists each year.

*SEA 93, SECTION 1; Adds IC 25-31.5-4*

*Effective July 1, 2001*

- The requirements for registration as a professional soil scientist and an associate soil scientist are outlined.

*SEA 93, SECTION 1; Adds IC 25-31.5-1*

*Effective July 1, 2001*

- The requirements for registration of a soil scientist do not apply to the following:
  - 1) An officer or employee of:
    - A) the federal government;
    - B) state government; or
    - C) local government;while providing soil science services for the officer's or employee's employer.
  - 2) An individual engaged solely in soil science research or the instruction of soil science.
  - 3) An individual not engaged in the public practice of soil science.
  - 4) A professional engineer who applies soil science to the practice of engineering.
  - 5) A professional geologist certified under IC 25-17.6 who applies soil science to the practice of geology.
  - 6) A person who is a certified professional erosion and sediment control specialist or soil conservationist who uses soil science in making land use decisions for the conservation of soil and water resources.
  - 7) A professional wetlands specialist who applies soil science to make wetland delineations or determinations.

*SEA 93, SECTION 1; Adds IC 25-31.5-5*

*Effective July 1, 2001*

- A registered professional soil scientist may use a seal or stamp of registration.

*SEA 93, SECTION 3(e); Noncode*

*Effective May 11, 2001*

*Expires January 1, 2003*

- The Indiana Board of Registration for Soil Scientists shall waive education and examination requirements for registration for an individual who, on July 1, 2001, meet specified requirements, including an individual who has at least five years of experience in evaluating soil morphology and soil landscapes and has submitted reports dealing with environmental aspects of soil science that were acceptable to:
  - 1) a county board of health;
  - 2) the State Department of Health;
  - 3) IDEM; or
  - 4) a similar agency.

## **RURAL ECONOMIC DEVELOPMENT STRATEGY**

*SEA 160, SECTION 1; Adds IC 4-4-9.5*

*Effective July 1, 2001*

- The Indiana Rural Development Council was established by the 1993 memorandum of understanding between Indiana and the United States Department of Agriculture.
- The Indiana Rural Development Council shall develop a rural economic development strategy for Indiana to assist Indiana's rural residents in improving their quality of life and to help promote successful and sustainable rural communities. The rural economic development strategy must include goals and recommendations concerning various issues, including land use, and infrastructure such as water, wastewater, and storm water.
- Beginning in 2002, the Indiana Rural Development Council must submit an annual report to the Legislative Council before October 1 of each year.

## **GUARANTEED ENERGY SAVINGS CONTRACT PROGRAM**

*Senate Resolution (SR) 51; Not adopted by the Senate*

*House Resolution (HR) 130; Adopted by the House*

- The Guaranteed Energy Savings Contract Program has been in place in Indiana since 1993 for school corporations, and since 1995 for units of local government.
- The Indiana Senate and House of Representatives request that the Legislative Council establish a study committee to find a method for establishing guidelines to clarify, for schools and local governments, the basis upon which guaranteed energy savings contracts are to be negotiated, including:
  - 1) providing for energy conservation measures that reduce energy consumption or reduce operating costs, including future labor and contracted services;
  - 2) providing for future cost avoidance for capital projects related to energy conservation and reduced energy consumption; and
  - 3) providing for up-front and ongoing documentation of cost savings anticipated and realized under a guaranteed energy savings contract.

## **AIR PROGRAM:**

### **MANDATORY USE OF GASOHOL IN STATE VEHICLES**

*SEA 456, SECTION 1; Adds IC 5-22-5-8*

*Effective July 1, 2001*

- A governmental body is required to whenever possible purchase gasohol to fuel the gasoline fueled vehicles owned or operated by the governmental body. This requirement does not apply to a political subdivision.
- The following vehicles are exempt from this requirement:
  - 1) A vehicle that is leased by the governmental body for 30 days or less.
  - 2) A vehicle whose official operating manual, as issued by the manufacturer of the vehicle, contains a statement that the use of gasohol will damage the engine of the vehicle.
  - 3) A vehicle that:
    - A) is primarily powered by a diesel or an electric motor; or
    - B) can use only propane, compressed or liquified natural gas, or methanol as its fuel source.
- The following terms are defined: “ethanol,” “gasohol,” “gasoline fueled vehicle,” and “vehicle.”

### **AGRICULTURAL MARKETING– USE OF ETHANOL IN FUEL AND POTENTIAL BAN ON USE OF MTBE**

*House Resolution (HR) 123; Adopted by the House*

- The Legislative Council is urged to establish a committee to study agricultural marketing, including the use of ethanol, and a potential ban on the use of methyl tertiary-butyl ether (MTBE) in petroleum products.

### **CORN MARKETING COUNCIL– PRODUCTION AND MARKETING OF ETHANOL**

*House Resolution (HR) 139; Adopted by the House*

- The Legislative Council is urged to establish a committee to study the Corn Marketing Council since it is vital to the economy of Indiana to find new uses for corn, such as the production and marketing of ethanol, and to provide corn farmers with information concerning new corn markets and technologies.

### **NORTHWEST INDIANA TRANSPORTATION STUDY COMMISSION**

*HEA 1852, SECTION 1; Noncode*

*Effective July 1, 2001*

*Expires November 2, 2003*

- The expiration date for the Northwest Indiana Transportation Study Commission is extended two years from November 2, 2001 to November 2, 2003.
- The duties of the commission regarding high speed rail service are removed.

# **LAND PROGRAM:**

## **REGULATION OF IRON AND STEEL MAKING SLAG**

*SEA 226, SECTION 1; Adds IC 13-19-3-8*

*Effective July 1, 2001*

- The Solid Waste Management Board is prohibited from adopting rules to regulate the following activities involving the legitimate use of slag generated by the production of iron or steel under Bureau of the Census Standard Industrial Classification 3312:
  - 1) Production of slag.
  - 2) Transportation of slag.
  - 3) Storage of slag.
  - 4) Processing of slag.
  - 5) Legitimate use of slag.

## **INDUSTRIAL WASTE DISPOSAL**

### **Definitions**

*HEA 1830, SECTION 1; Amends IC 13-11-2-133*

*Effective July 1, 2001*

- The definition of “municipal waste” is amended to remove a reference to “industrial waste.”

*HEA 1830, SECTION 2; Amends IC 13-11-2-193*

*Effective July 1, 2001*

- The definition of “restricted waste” is amended to update the reference to the administrative rulemaking code.

*HEA 1830, SECTION 3; Amends IC 13-11-2-206*

*Effective July 1, 2001*

- The definition of “solid waste disposal facility” is amended to apply to IC 13-19-3-8.2. *(Please note that a technical error has occurred in HEA 1830– the reference to IC 13-19-3-8 is supposed to be IC 13-19-3-8.2 and will be corrected in next session’s technical corrections bill.)*

*HEA 1830, SECTION 4; Amends IC 13-11-2-208*

*Effective July 1, 2001*

- The definition of “solid waste landfill” is amended to apply to the provision on solid waste disposal fees, and to remove a reference to the chapter on industrial waste.

*HEA 1830, SECTION 5; Amends IC 13-11-2-212*

*Effective July 1, 2001*

- The definition of “solid waste processing facility” is amended to apply to IC 13-19-3-8.2. *(Please note that a technical error has occurred in HEA 1830– the reference to IC 13-19-3-8 is supposed to be IC 13-19-3-8.2 and will be corrected in next session’s technical corrections bill.)*

## **Elimination of Industrial Waste Classification**

*HEA 1830, SECTION 11; Noncode– Repealers*

*Effective July 1, 2001*

- IC 13-20-7.5, the chapter on industrial waste is repealed.
- IC 13-11-2-109.5, the definition for “industrial waste” is repealed.
- P.L.138-2000, SECTION 10 is repealed, which required the Solid Waste Management Board to adopt rules to reflect the elimination of references to special waste and the addition of references to industrial waste, since this provision was not due to expire until January 1, 2002.

*HEA 1830, SECTION 7; Amends IC 13-20-1-1*

*HEA 1830, SECTION 11; Noncode– Repealers*

*Effective July 1, 2001*

- The term “industrial waste” is removed from the provision.

*HEA 1830, SECTION 6; Adds IC 13-19-3-8.2*

*Effective July 1, 2001*

- IDEM is given the authority to modify a permit to prohibit the processing or disposal of specific solid waste at:
  - 1) a solid waste disposal facility; or
  - 2) a solid waste processing facility.

*HEA 1830, SECTION 9; Amends IC 13-20-21-6*

*Effective July 1, 2001*

- The solid waste disposal fees remain the same, but terminology for the waste types has been revised as follows:

Solid waste disposed into a municipal solid waste landfill per ton	\$0.10
Solid waste disposed into a nonmunicipal solid waste landfill per ton	\$0.10
Solid waste disposed into an incinerator per ton	\$0.05
Solid waste disposed into a construction/demolition waste site per ton	\$0.10

- Language is added to clarify that there is no solid waste disposal fee for solid waste disposed into a solid waste landfill permitted to accept restricted waste solely generated by the person to which the permit is issued.

*HEA 1830, SECTION 10; Noncode*

*Effective July 1, 2001*

*Expires July 1, 2003*

- The Solid Waste Management Board is required to adopt rules before July 1, 2003, to reflect the elimination and repeal of:
  - 1) references to industrial waste; and
  - 2) references to special waste in SECTIONS 2, 5, 6, 7, 9, and 11 of P.L.138-2000, which eliminated the “special waste” category and added the “industrial waste” category.

*HEA 1830, SECTION 8; Adds IC 13-20-8-9*

*Effective July 1, 2001*

- A generator that ships solid waste to a waste-to-energy facility must, before the facility accepts the solid waste, notify the facility if the solid waste meets any of the following criteria:
  - 1) The solid waste contains:

- A) a volatile liquid or solid;
- B) a powder;
- C) a flammable material;
- D) an allergen; or
- E) a sensitizer.
- 2) The solid waste:
  - A) was segregated from other solid waste; or
  - B) received special preparation for shipment.
- 3) The solid waste is a bulk material.
- 4) The solid waste is a waste resulting directly from a manufacturing process.
- The notification is required before each shipment by a generator of solid waste in bulk quantities to a waste-to-energy facility.

## **UNDERGROUND STORAGE TANK FUNDS**

### **Underground Storage Tank Guaranty Fund and Program**

*HEA 2041, SECTION 19; Noncode– Repealers*

*Effective July 1, 2001*

- IC 13-23-10, the chapter on the Underground Storage Tank Guaranty Fund and Program is repealed.  
***Background information:** The Underground Storage Tank Loan Guaranty Program was used to upgrade petroleum underground storage tanks to comply with the federal standards. The Underground Storage Tank Grant Program allowed IDFA to award grants from the fund to owners and operators to assist in the closure or removal of underground storage tanks if they met specified requirements in order to meet the December 22, 1998 federal deadline for upgrading underground storage tanks.*
- IC 13-11-2-229, the definition for the term “tank upgrading project” is repealed.

*HEA 2041, SECTION 1; Amends IC 13-11-2-16*

*HEA 2041, SECTION 3; Amends IC 13-11-2-87*

*HEA 2041, SECTION 4; Amends IC 13-23-7-1*

*HEA 2041, SECTION 5; Amends IC 13-23-7-4*

*HEA 2041, SECTION 6; Amends IC 13-23-8-1*

*HEA 2041, SECTION 7; Amends IC 13-23-8-2*

*HEA 2041, SECTION 9; Amends IC 13-23-8-4*

*HEA 2041, SECTION 11; Amends IC 13-23-8-6*

*HEA 2041, SECTION 12; Amends IC 13-23-8-7*

*HEA 2041, SECTION 17; Amends IC 13-23-11-7*

*Effective July 1, 2001*

- References to the Underground Storage Tank Guaranty Fund and Program are removed.

*HEA 2041, SECTION 20; Noncode*

*Effective June 1, 2001*

*Expires July 1, 2001*

- Any money remaining in the Underground Storage Tank Guaranty Fund as of June 29, 2001, shall be transferred to the State General Fund on June 30, 2001.



## **Underground Petroleum Storage Tank Excess Liability Trust Fund (ELTF)**

*HEA 2041, SECTION 2; Adds IC 13-11-2-25.7*

*Effective July 1, 2001*

- “Claimant” is defined for purposes of the Underground Petroleum Storage Tank Excess Liability Trust Fund (*commonly referred to as the “ELTF”*).

*HEA 2041, SECTION 11; Amends IC 13-23-8-6*

*HEA 2041, SECTION 12; Amends IC 13-23-8-7*

*HEA 2041, SECTION 15; Amends IC 13-23-9-2*

*HEA 2041, SECTION 16; Amends IC 13-23-9-3*

*Effective July 1, 2001*

- The term “owner or operator” is replaced by “claimant.”

*HEA 2041, SECTION 7; Amends IC 13-23-8-2*

*Effective July 1, 2001*

- Payments from the ELTF for liability claims is changed from a “two-step formula per event” to “not more than \$2 million per occurrence.”

*HEA 2041, SECTION 8; Amends IC 13-23-8-3*

*Effective July 1, 2001*

- Compliance with regulations adopted by the U.S. EPA, and rules adopted by the Fire Prevention and Building Safety Commission are removed from liability claim determinations.

*HEA 2041, SECTION 9; Amends IC 13-23-8-4*

*Effective July 1, 2001*

- References to “IDEM’s initial site investigation report guidelines” is replaced with references to “329 IAC 9-4 on releases, and 329 IAC 9-5 on corrective action” in regard to a corrective action plan for a site with a release from an underground petroleum storage tank that impacts soil or groundwater.
- References to the “risk-based corrective action plan” are changed to the “risk integrated system of closure.”
- If there is a conflict between compliance with the corrective action plan and the Solid Waste Management Board’s rules, the board’s rules control.
- The term “immediate removal” is replaced by “initial response” in regard to eligibility to receive funds before the corrective action plan is approved for a petroleum release that created the need for emergency action.
- A transferee of property is eligible to receive money from the ELTF if the transferor of the property was eligible to receive money.
- An owner, operator, or transferee of property who is eligible to receive money from the ELTF may assign that right to another person.

*HEA 2041, SECTION 10; Amends IC 13-23-8-4.5*

*Effective July 1, 2001*

- The Underground Petroleum Storage Tank Financial Assurance Board is required to adopt rules to determine eligibility to receive money from the ELTF for tank owners or operators that acquire ownership or operation of a tank as a result of an inheritance.

*HEA 2041, SECTION 13; Amends IC 13-23-8-8*

*Effective July 1, 2001*

- The limit on the amount of money that an owner or operator of up to 100 underground petroleum storage

tanks may receive from the ELTF during a year is increased to \$2 million from \$1 million.

- The limit on the amount of money that an owner or operator of more than 100 underground storage tanks may receive from the ELTF during a year is increased to \$3 million from \$2 million.

*HEA 2041, SECTION 18; Amends IC 13-23-12-7*

*Effective July 1, 2001*

- The civil penalty on an owner of a tank who fails to pay the tank registration fee (\$90 per underground petroleum storage tank, \$245 per underground storage tank containing regulated substances other than petroleum) is increased from not more than \$50 per tank for each day, to not more than \$2,000 per tank for each year that passes after the fee becomes due and before the fee is paid.

*HEA 2041, SECTION 3; Amends IC 13-11-2-87*

*HEA 2041, SECTION 9; Amends IC 13-23-8-4*

*HEA 2041, SECTION 11; Amends IC 13-23-8-6*

*HEA 2041, SECTION 14; Amends IC 13-23-9-1*

*Effective July 1, 2001*

- The term “trust” is inserted to correctly reference the “Underground Petroleum Storage Tank Excess Liability Trust Fund.”

## **IDEM ENFORCEMENT OF RESTRICTIVE COVENANTS ON LAND**

*SEA 321, SECTION 2; Adds IC 13-11-2-193.5*

*Effective July 1, 2001*

- “Restrictive covenant” is defined.

*SEA 321, SECTION 1; Amends IC 13-14-2-6*

*Effective July 1, 2001*

- The commissioner of IDEM is given the authority to proceed in court to enforce a restrictive covenant approved by the commissioner and created in connection with any remediation, closure, cleanup, or corrective action under Title 13 in accordance with the terms of the covenant.

## **TAX CREDIT FOR VOLUNTARY REMEDIATION OF A BROWNFIELD**

*SEA 273, SECTION 1; Adds IC 6-3.1-23*

*SEA 273, SECTION 3; Noncode*

*Effective January 1, 2002*

- The following terms are defined: “pass through entity,” “qualified investment,” and “state tax liability.”
- A state tax credit is allowed for voluntary remediation of a brownfield. This tax credit is available for tax years 2002 and 2003. A taxpayer is entitled to a credit equal to the lesser of \$100,000 or 10% multiplied by the qualified investment made by the taxpayer during the taxable year against the taxpayer's state tax liability for a taxable year if the following requirements are satisfied:
  - 1) The taxpayer does the following:
    - A) Makes a qualified investment in that taxable year.
    - B) Makes a good faith attempt to recover the costs of the environmental damages from the liable parties.
    - C) Submits a redevelopment plan to the legislative body of the political subdivision in which the property is located to redevelop the property in a manner in which the legislative body determines to be in the best interest of the community. The redevelopment plan must include a statement of public benefits.

- 2) The legislative body of the political subdivision in which the property is located adopts a resolution approving the credit. Before adopting a resolution, the legislative body must review the statement of benefits and conduct a public hearing on the proposed tax credit.
  - 3) IDEM determines that the taxpayer's return claiming the credit is filed with IDEM before the maximum amount of credits allowed is met.
- The legislative body shall determine whether to approve a tax credit. In determining whether the redevelopment is in the best interest of the community, the legislative body must consider whether the proposed development promotes:
    - 1) the development of low to moderate income housing;
    - 2) the development of green space;
    - 3) the development of high technology businesses; or
    - 4) the creation or retention of high paying jobs.
  - A legislative body may approve a credit only if the following findings are made in the affirmative:
    - 1) The taxpayer:
      - A) has never had an ownership interest in an entity that contributed; and
      - B) has not contributed;
 to contamination that is the subject of the voluntary remediation, as determined under the written standards adopted by IDEM and the Indiana Development Finance Authority (IDFA).
    - 2) The proposed improvement or property will be located in a brownfield revitalization zone.
    - 3) The estimate of the value of the remediation and redevelopment is reasonable for projects of that nature.
    - 4) The estimate of the number of individuals who will be housed or employed or whose employment will be retained can be reasonably expected to result from the proposed remediation and redevelopment.
    - 5) The estimate of the annual salaries of those individuals who will be employed or whose employment will be retained can be reasonably expected to result from the proposed remediation and redevelopment.
    - 6) Any other benefits about which information was requested are benefits that can be reasonably expected to result from the proposed remediation and redevelopment.
    - 7) The totality of benefits is sufficient to justify the credit.
  - A taxpayer must request IDEM and the IDFA to determine if costs incurred in a voluntary remediation involving a brownfield are qualified investments. The request must be made before the costs are incurred. IDEM and IDFA shall certify costs incurred in a voluntary remediation as a qualified investment to the extent that the costs:
    - 1) result from work performed in Indiana to conduct a voluntary remediation under IC 13-25-5 that involves the remediation of a brownfield;
    - 2) may not be recovered by the taxpayer from another person after the taxpayer has made a good faith effort to recover the costs; and
    - 3) result in taxable income to any other Indiana taxpayer;
 as determined under the standards adopted by IDEM.
  - Upon completion of a voluntary remediation that has been certified as a qualified investment, the taxpayer shall notify IDEM and request certification of the completion of the voluntary remediation.
  - To receive the credit, a taxpayer must claim the credit on the taxpayer's state tax return or returns in the manner prescribed by IDEM.

- IDEM shall record the time of filing of each return claiming a credit and shall grant the credit to the taxpayer in the chronological order in which the return is filed in the state fiscal year.
- If the total credits approved equal the maximum amount allowable in a state fiscal year, a return claiming the credit filed later in that same fiscal year may not be approved. However, if an applicant for whom a credit has been approved fails to file, an amount equal to the credit previously allowed or set aside for the applicant may be allowed to the next eligible applicant or applicants until the total amount has been allowed. In addition, IDEM may, if the applicant so requests, approve a credit application, in whole or in part, with respect to the next succeeding state fiscal year.
- If the amount in a taxable year exceeds the taxpayer's state tax liability for that taxable year, the taxpayer may carry the excess over for not more than the immediately following five taxable years. The amount of the credit carryover from a taxable year shall be reduced to the extent that the carryover is used by the taxpayer to obtain a credit for any subsequent taxable year. A taxpayer is not entitled to a carryback or a refund of any unused credit.
- If a pass through entity is entitled to a credit but does not have state tax liability against which the tax credit may be applied, a shareholder, a partner, or a member of the pass through entity is entitled to a tax credit equal to:
  - 1) the tax credit determined for the pass through entity for the taxable year; multiplied by
  - 2) the percentage of the pass through entity's distributive income to which the shareholder, partner, or member is entitled. The credit provided is in addition to a tax credit to which a shareholder, partner, or member of a pass through entity is otherwise entitled. However, a pass through entity and a shareholder, partner, or member of the pass through entity may not claim more than one credit for the same qualified expenditure.
- The taxpayer shall submit specified documents to the Department of State Revenue.
- The Department of State Revenue shall report the total credits granted for each state fiscal year to IDFA. IDFA shall transfer to the state general fund an amount equal to the total credits granted from the subaccount of the Environmental Remediation Revolving Loan Fund.
- The amount of tax credits may not exceed \$1 million in a state fiscal year unless IDFA determines that money is available for additional tax credits in a particular state fiscal year. However, if the maximum amount of tax credits allowed exceeds the amount available in the subaccount of the Environmental Remediation Revolving Loan Fund, the maximum amount of tax credits is reduced to the amount available.
- At the end of each state fiscal year, IDFA may determine whether money is available in the subaccount of the Environmental Remediation Revolving Loan Fund to provide tax credits in excess of \$1 million in the subsequent state fiscal year.
- Before December 31 of each year, IDFA may assess the demand for tax credits and determine whether the need for other brownfield activities is greater than the need for tax credits. If IDFA determines that the need for other brownfield activities is greater than the need for tax credits, the authority may set aside up to 3/4 of the amount of allowable tax credits for the subsequent state fiscal year and use it for other brownfield projects.
- IDFA may use money set aside for any permissible purpose. Money specifically appropriated for tax credits may not be set aside for another use.
- IDFA, after consulting with IDEM and the State Budget Agency, and without complying with the administrative rulemaking procedures, may adopt guidelines to govern the administration of these provisions.

## **TRANSFERS TO THE ENVIRONMENTAL REMEDIATION REVOLVING LOAN FUND**

SEA 273, SECTION 2; Amends IC 13-19-5-15

Effective July 1, 2001

- The term “subaccount” is replaced with “account” to correct a reference in this provision on the Environmental Remediation Revolving Loan Program.

## **COUNTY USE OF MONEY FROM THE HAZARDOUS WASTE DISPOSAL TAX**

SEA 170, SECTION 1; Amends IC 6-6-6.6-3

Effective July 1, 2001

- **Background information:** *The Hazardous Waste Disposal Tax is an \$11.50 per ton tax imposed on the disposal of hazardous waste in a disposal facility in Indiana. 75% of the revenue from the tax is deposited in the Hazardous Substances Response Trust Fund. The remaining 25% is paid over to the county in which the disposal facility is located. The counties may use the money for specified purposes.*
- Two additional purposes that the county portion of the tax can be used for are as follows:
  - 1) Paying the costs associated with the construction or rehabilitation of a facility used for training county and local public health and public safety officers in the proper procedures for dealing with emergencies involving hazardous substances or hazardous waste.
  - 2) Paying the costs associated with any other project that has identifiable environmental benefits.
- **Note:** *Putnam and Porter Counties are the only two counties remaining that this provision applies to since they are the only two counties left with a hazardous waste disposal facility.*
- These two additional purposes that the county portion of the tax can be used for is excluded from applying to Allen County.

## **STORAGE AND TRANSPORTATION OF ANHYDROUS AMMONIA AND AMMONIA SOLUTIONS**

HEA 1892, SECTION 4; Adds IC 22-11-20

Effective July 1, 2001

- A person who knowingly or intentionally stores or transports anhydrous ammonia (NH<sub>3</sub>) or an ammonia solution in a container that does not, or with appurtenances that do not, conform to the requirements of a law governing the design, construction, location, installation, or operation of equipment for storage, handling, use, or transportation of anhydrous ammonia or an ammonia solution commits a Class A misdemeanor.
- “Law,” as defined for purposes of IC 22-11-20, includes the following:
  - 1) IC 13 or a rule adopted under IC 13.
  - 2) IC 15-3-2 or a rule adopted under IC 15-3-2.
  - 3) IC 22-8-1.1 or a rule adopted under IC 22-8-1.1.
  - 4) An equipment law.
- This provision does not apply to a person that stores or transports anhydrous ammonia or an ammonia solution for a lawful agricultural or commercial purpose.

## **DUMPING OF CONTROLLED SUBSTANCE WASTE**

HEA 1892, SECTION 23; Adds IC 35-48-4-4.1

Effective July 1, 2001

- A person who dumps, discharges, discards, transports, or otherwise disposes of:
  - 1) chemicals, knowing the chemicals were used in the illegal manufacture of a controlled substance or

an immediate precursor; or  
2) waste, knowing that the waste was produced from the illegal manufacture of a controlled substance or an immediate precursor;  
commits dumping controlled substance waste, a Class D felony. It is not a defense in a prosecution that the person did not manufacture the controlled substance or immediate precursor.

### **FULL REIMBURSEMENT TO FIRE DEPARTMENTS FOR HAZARDOUS MATERIAL EMERGENCY ACTIONS**

*HEA 1967, SECTION 1; Amends IC 13-25-6-3*

*HEA 1967, SECTION 2; Amends IC 13-25-6-5*

*HEA 1967, SECTION 3; Adds IC 36-8-12.2*

*Effective April 18, 2001*

- Full reimbursement (rather than excluding expenses that are normally incurred in responding to an emergency that do not involve hazardous materials) from the responsible party is available to a fire department that employs either only full-time paid members, or both full-time paid members and volunteer members, for expenses incurred in taking emergency action to a hazardous materials emergency.

### **COMMERCIAL FERTILIZER-MANURE**

*HEA 1075, SECTION 2; Amends IC 15-3-3-3*

*Effective July 1, 2001*

- Unmanipulated animal and vegetable manures are now included in the definition of “fertilizer material.”  
Unmanipulated animal and vegetable manures are now subject to the requirements of commercial fertilizers, including obtaining a registration and being subject to inspections from the State Chemist.
- Nonprocessed barnyard manure is no longer excepted from the definition of “commercial fertilizer.”  
Nonprocessed manure is excepted from the definition of “commercial fertilizer.”

### **TRANSPORTATION OF WASTE**

*HEA 1830, SECTION 11; Noncode- Repealers*

*Effective July 1, 2001*

- IC 13-20-4-8, that limited the use of a municipal waste collection and transportation vehicles to various types of waste, is repealed since the provision was ruled unconstitutional by the Federal Court several years ago as it was part of the package to ban backhauling of garbage in trucks that haul other products.

# **POLLUTION PREVENTION PROGRAM:**

## **MERCURY AND MERCURY PRODUCTS**

### **Definitions**

*HEA 1901, SECTION 1; Adds IC 13-11-2-7.5*

*Effective July 1, 2001*

- “Antique” is defined as a product manufactured before 1980 for purposes of the provisions on mercury and mercury products (IC 13-20-17.5).

*HEA 1901, SECTION 3; Amends IC 13-11-2-126*

*Effective July 1, 2001*

- A definition for “manufacturer” is added for purposes of the chapter on mercury and mercury products (IC 13-20-17.5).

*HEA 1901, SECTION 5; Adds IC 13-11-2-128.3*

*Effective July 1, 2001*

- “Mercury-added novelty” is defined.

*HEA 1901, SECTION 6; Adds IC 13-11-2-128.5*

*Effective July 1, 2001*

- “Mercury-added product” is defined.

*HEA 1901, SECTION 7; Adds IC 13-11-2-128.6*

*Effective July 1, 2001*

- “Mercury commodity” is defined.

*HEA 1901, SECTION 8; Adds IC 13-11-2-128.7*

*Effective July 1, 2001*

- “Mercury fever thermometer” is defined.

### **Restrictions**

*HEA 1901, SECTION 15; Adds IC 13-20-17.5*

*Effective July 1, 2001*

- After July 1, 2003, a mercury-added novelty may not be offered for final sale or distributed for promotional purposes in Indiana if the offerer or distributor knows or has reason to know that the novelty contains mercury. This provision does not apply to a mercury-added novelty if the novelty uses a mercury-added button cell battery to function and the only mercury contained in the novelty is found in the mercury-added button cell battery.
- After July 1, 2003, a person may sell or supply a mercury fever thermometer to an individual only if the person is a pharmacist, or a pharmacist's assistant, working at a pharmacy and the thermometers are stored in such a manner that the pharmacist or the pharmacist's assistant must obtain the thermometer for the individual. A licensed practitioner of medicine may sell or supply a mercury fever thermometer to an individual. These provisions do not apply to a mercury thermometer or to a thermometer if the thermometer uses a mercury-added button cell battery and the only mercury contained in the thermometer is found in the mercury-added button cell battery.
- After July 1, 2003, a public school or nonpublic school may not use or purchase for use in a primary or

secondary classroom:

- 1) a mercury commodity;
- 2) mercury compounds; or
- 3) mercury-added instructional equipment and materials;

except measuring devices and thermometers for which no adequate substitute exists for use in laboratories.

- After July 1, 2003, a person may sell or provide a mercury commodity to another person in Indiana (other than for collection for recycling) only if:
  - 1) the person selling or providing the mercury commodity provides a material safety data sheet with the mercury commodity; and
  - 2) the person selling or providing the mercury commodity requires the purchaser or recipient to sign a statement with respect to the mercury in the mercury commodity that the purchaser or recipient:
    - A) will use the mercury only for medical purposes, in dental amalgam dispose-caps, for training, for research, or for manufacturing purposes;
    - B) understands that mercury is toxic;
    - C) will store and use the mercury appropriately so that no individual is exposed to the mercury under normal conditions of use; and
    - D) will not intentionally place or cause to be placed, or allow anyone under the control of the purchaser or recipient to place or cause to be placed, the mercury commodity in solid waste for disposal or in a wastewater disposal system.
- These provisions on mercury and mercury products do not apply to antiques.

### **Education and Collection Programs**

*HEA 1901, SECTION 15; Adds IC 13-20-17.5*

*Effective July 1, 2001*

- IDEM, and Solid Waste Management Districts (SWMDs) in cooperation and with the support of IDEM, shall implement education programs to provide information to the public concerning:
  - 1) the reuse and recycling of mercury in mercury commodities, and mercury-added products; and
  - 2) collection programs available to the public for mercury commodities, and mercury-added products.
- Units, in cooperation and with the support of IDEM, may implement education programs to provide information to the public concerning:
  - 1) the reuse and recycling of mercury in mercury commodities, and mercury-added products; and
  - 2) collection programs available to the public for mercury commodities, and mercury-added products.
- SWMDs shall implement mercury collection programs for the public and small businesses.
- Units may implement mercury collection programs for the public and small businesses.

*HEA 1901, SECTION 12; Amends IC 13-21-3-12*

*Effective July 1, 2001*

- SWMDs are given the power to conduct educational programs to provide information to the public concerning:
  - 1) the reuse and recycling of mercury in mercury commodities, and mercury-added products; and
  - 2) collection programs available to the public for mercury commodities, and mercury-added products.
- SWMDs are given the power to implement mercury collection programs for the public and small businesses.



## **EQSC Review**

*HEA 1901, SECTION 17; Noncode*

*Effective July 1, 2001*

*Expires January 1, 2004*

- Before January 1, 2004, the Environmental Quality Service Council is directed to:
  - 1) review issues relating to the labeling and disposal of products that contain mercury;
  - 2) review issues relating to the notifications, restrictions on sales, and limitations on the use of elemental mercury; and
  - 3) make legislative recommendations based on the reviews conducted if appropriate.

## **SOLID WASTE MANAGEMENT DISTRICTS**

### **Distributions to Solid Waste Management Districts from COIT and CAGIT**

*SEA 464, SECTION 1; Amends IC 6-3.5-1.1-1.3*

*SEA 464, SECTION 2; Amends IC 6-3.5-6-1.3*

*Effective July 1, 2001*

- A resolution passed by a county fiscal body to approve a distribution to a Solid Waste Management District (SWMD) under the laws concerning the county option income tax (COIT) and the county adjusted gross income tax (CAGIT) may: 1) expire on a date specified in the resolution; or 2) remain in effect until the county fiscal body revokes or rescinds the resolution; rather than having to pass a resolution each year.

### **Waste Management Services**

*SEA 464, SECTION 3; Amends IC 13-21-3-14.5*

*Effective July 1, 2001*

- The law that restricts SWMDs from providing waste management services (*commonly referred to as the "349 requirements," referring to SEA 349, passed in 1996*) does not apply to activities conducted as part of household hazardous waste collection and disposal projects.
- A resolution adopted by a SWMD board may authorize a SWMD to perform more than one solid waste recycling, collection, or disposal event if the duration of each event is not more than one day and all events will take place in one calendar year.

## **CLEAN MANUFACTURING TECHNOLOGY BOARD MEMBERSHIP AND MEETING NOTICES**

*SEA 121, SECTION 1; Amends IC 13-27.5-1-2*

*Effective July 1, 2001*

- The membership of the Clean Manufacturing Technology Board is increased from 12 to 13 members by adding a representative who has expertise in occupational health and the workplace environment.

*SEA 121, SECTION 2; Amends IC 13-27.5-1-3*

*Effective July 1, 2001*

- The provision that a member of the board cannot serve more than two consecutive terms is removed.

*SEA 121, SECTION 3; Amends IC 13-27.5-1-7*

*Effective July 1, 2001*

- The provision on publishing notices of meetings are removed.
- Meetings of the board must still be held in accordance with the Open Door Law.

## **PESTICIDE USE IN SCHOOLS**

*House Resolution (HR) 125; Adopted by the House*

- That the Indiana House of Representatives, including the members of the Education Committee, support the implementation of policies and procedures to prevent adverse effects of pesticide use in public and nonpublic schools to assist in protecting and promoting the health and welfare of the citizens of Indiana.
- In order to better protect the children of each public and nonpublic school, the State Chemist and a representative from each public and nonpublic school in Indiana should be directed to report to the chairman and the members of the Education Committee of the Indiana House of Representatives no later than December 1, 2001, regarding the progress of each school toward the adoption of policies and procedures to prevent adverse effects of pesticide use in the schools.
- Interested parties are encouraged to lend their expertise to assist each public and nonpublic school in Indiana in the development of policies and procedures to prevent adverse effects on students and employees from the use of pesticides in the schools.

## **WATER PROGRAM:**

### **ADDITIONAL USES OF THE SUPPLEMENTAL DRINKING WATER AND WASTEWATER ASSISTANCE FUND**

*SEA 236, SECTION 1; Adds IC 13-11-2-223.5*

*Effective July 1, 2001*

- “Storm water management program” is defined.

*SEA 236, SECTION 2; Amends IC 13-18-21-23*

*SEA 236, SECTION 3; Amends IC 13-18-21-25*

*Effective July 1, 2001*

- The State Budget Agency is given the authority to make grants to political subdivisions from the Supplemental Drinking Water and Wastewater Assistance Fund for tasks associated with the development and preparation of:
  - 1) long term control plans;
  - 2) use attainability analyses; and
  - 3) storm water management programs.

*SEA 236, SECTION 4; Noncode*

*Effective May 1, 2001*

*Expires September 2, 2001*

- By September 1, 2001, the State Budget Agency shall establish the terms and conditions under which it will make grants to political subdivisions for tasks associated with the development and preparation of long term control plans, use attainability analyses, and storm water management programs. The State Budget Agency shall consult with representatives of political subdivisions and other entities identified by the State Budget Agency that have an interest in developing the terms and conditions.

### **REGIONAL SEWER DISTRICT CONNECTION EXEMPTION AND RATES**

*HEA 1342, SECTION 1; Adds IC 13-11-2-199.5*

*Effective July 1, 2001*

- “Septic tank soil absorption system” is defined.

*HEA 1342, SECTION 2; Amends IC 13-26-5-2*

*HEA 1342, SECTION 3; Adds IC 13-26-5-2.5*

*Effective July 1, 2001*

- A property owner is exempt from the requirement to connect to the regional sewer district's sewer system and discontinue use of a septic tank soil absorption system if the following conditions are met:
  - 1) The property owner's septic tank soil absorption system was installed not more than five years before the district's sewer system's anticipated connection date.
  - 2) The property owner's septic tank soil absorption system was new at the time of installation and was approved in writing by the local health department.
  - 3) The property owner, at the property owner's own expense, obtains and provides to the district a certification from the local health department or the department's designee that the septic tank soil absorption system is functioning satisfactorily. If the local health department or the department's designee denies the issuance of a certificate to the property owner, the property owner may appeal the denial to the board of the local health department. The decision of the board is final and binding.

- 4) The property owner provides the district with the written notification of potential qualification for the exemption and the certification from the local health department that the septic tank soil absorption system is functioning satisfactorily.
- A property owner who qualifies for the exemption may not be required to connect to the district's sewer system for a period of three years beginning on the date the district's sewer system's anticipated connection date.
  - If ownership of the property passes from the owner who qualified for the exemption to another person during the exemption period, the exemption does not apply to the subsequent owner of the property.
  - The district may require a property owner who qualifies for the exemption to discontinue use of a septic tank soil absorption system and connect to the district's sewer system if the district credits the unamortized portion of the original cost of the property owner's septic tank soil absorption system against the debt service portion of the customer's monthly bill. The amount that the district must credit under this subsection is determined in a specified formula.
  - A district that has filed plans with IDEM to create or expand a sewer district shall, within 10 days after filing the plans, provide written notice to affected property owners:
    - 1) that the property owner may be required to discontinue the use of a septic tank soil absorption system;
    - 2) that the property owner may qualify for an exemption from the requirement to discontinue the use of the septic tank soil absorption system; and
    - 3) of the procedures to claim an exemption.
  - To qualify for an exemption under this section, a property owner must:
    - 1) within 60 days after the date of the written notice given to the property owner, notify the district in writing that the property owner qualifies for the exemption; and
    - 2) within 60 days after the district receives the written notice, provide the district with the certification from the local health department that the septic tank soil absorption system is functioning satisfactorily.

*HEA 1342, SECTION 4; Adds IC 13-26-11-15*

*Effective July 1, 2001*

- A district authority is established in each regional sewer district. The district authority of a regional sewer district consists of the following:
    - 1) In the case of a regional sewer district located in one county, the county executive of that county, or if the members of the county executive are trustees of the regional sewer district, the members of the county fiscal body.
    - 2) In the case of a regional sewer district located in more than one county, one county executive member, appointed by that member's county executive, from each county in which the district is located.
- A person who serves on the board of trustees of a district may not be a member of the district authority.
- If a district adopts an ordinance increasing sewer rates and charges at a rate that is greater than 5% per year, as calculated from the rates and charges in effect from the date of the district's last rate increase before January 1, 2001, 50 freeholders of the district or 10% of the district's freeholders, whichever is fewer, may file a written petition objecting to the rates and charges of the district not later than 30 days after the district adopts the ordinance establishing the rates and charges.

- The district authority shall investigate and conduct a public hearing on the petition. The district authority shall determine whether the increased sewer rates and charges established by the board by ordinance are just and equitable rates and charges. The order of the district authority may be appealed by the district or a petitioner to the circuit court of the county in which the district is located.

*HEA 1342, SECTION 5; Noncode*

*Effective July 1, 2001*

*Expires July 1, 2002*

- The provisions in IC 13-26-5-2.5 and IC 13-26-11-15 above do not apply to a regional sewer district if the district began construction or received final bids on construction during 2001.

## **REGIONAL WATER AND SEWER DISTRICT BIDDING**

*HEA 1211, SECTION 1; Amends IC 36-1-12-4*

*HEA 1211, SECTION 2; Amends IC 36-1-12-4.7*

*Effective July 1, 2001*

- A board of trustees of a regional water or sewer district is required to follow specified procedures to competitively bid a public works project if the cost of the project is at least \$75,000.
- A board of trustees of a regional water or sewer district is required to follow set procedures for receiving quotes for a public works project if the cost of the project is at least \$25,000 but less than \$75,000.

## **BARRETT LAW INSTALLMENTS**

*SEA 338, SECTION 1; Adds IC 36-9-36-9.5*

*SEA 338, SECTION 2; Amends IC 36-9-36-36*

*SEA 338, SECTION 4; Adds IC 36-9-37-8.5*

*SEA 338, SECTION 5; Amends IC 36-9-37-11*

*SEA 338, SECTION 6; Amends IC 36-9-37-12*

*Effective July 1, 2001*

- Property owners in a county or municipality will have the option to pay assessments in monthly or annual installments over a 10, 20, or 30 year period (*currently, taxpayers only have the option of annual payments over a 10-year period*). This applies to assessments imposed after June 30, 2001.

*SEA 338, SECTION 8; Adds IC 36-9-38-23.5*

*SEA 338, SECTION 9; Amends IC 36-9-38-29*

*Effective July 1, 2001*

- Property owners in a municipal improvement district will have the option to pay assessments in monthly or annual installments over a 1, 5, 10, 15, or 20 year period (*currently, taxpayers only have the option of 1, 5, 10, 15, or 20 annual installments*). This applies to assessments imposed after June 30, 2001.

*SEA 338, SECTION 3; Amends IC 36-9-36-46*

*SEA 338, SECTION 7; Amends IC 36-9-37-29*

*SEA 338, SECTION 10; Amends IC 36-9-38-30*

*Effective July 1, 2001*

- The municipal legislative body would provide that bonds issued in anticipation of the collection of assessments must be issued so as to mature between 10 and 30 years from the date of issuance (*currently, bonds must be issued in a 10-year series*).

## **STUDY ON LOCAL PUBLIC IMPROVEMENT AREAS**

*House Concurrent Resolution (HCR) 111; Adopted by the House, but not adopted by the Senate*

- The Legislative Council is urged to establish a committee to study the establishment of local public improvement areas.
- Originally it was the responsibility of local governments to provide the infrastructure necessary for housing development, such as water, sewer, roadways, sidewalks, recreation areas, school buildings, and other capital projects. Local governments no longer have the capacity to finance the necessary infrastructure improvements for housing development. Under current conditions, housing developers build the infrastructure and pass the costs along to the purchaser in the purchase price of housing and it is therefore financed at regular mortgage rates. The establishment of local public improvement areas provides a mechanism for local governments to finance the development of infrastructure at municipal financing rates. The establishment of local public improvement areas allows local governments to pay for the infrastructure with assessments related to the benefits provided by the infrastructure. The establishment of local public improvement areas encourages ownership by reducing the cost of home ownership through reduced infrastructure financing rates.

## **DRAINAGE PLANS FOR SUBDIVISIONS**

*SEA 152, SECTION 1; Adds IC 36-9-27-69.5*

*Effective July 1, 2001*

- A person who lays out a subdivision of lots or lands outside a municipality is required to obtain the approval of the county drainage board of the plans and specifications for the drainage of the subdivision tract before proceeding with development of the subdivision.
- A drainage plan and specifications must comply with the following standards:
  - 1) The plan must maintain the amount of drainage through the tract that existed when the tract was created. If any tiles are cut, broken down, or rendered useless during the construction activity on the tract, the landowner will be responsible for the repair, replacement, or relocation of the tile.
  - 2) The plan may not change the locations where surface water enters the tract and exits the tract from the locations that existed when the tract was created. The county drainage board may approve an alternate plan that does not comply with this standard.
  - 3) Water which sheds off of a new structure, especially when the new structure is elevated or near a property line, or both, must exit the tract in the same location where it did when the tract was created.

## **LOCAL DRAINAGE BOARDS**

*SEA 486, SECTION 1; Amends IC 6-1.1-6.7-5*

*Effective July 1, 2001*

- Appeals of the county assessor's determination of classification of land as a filter strip are to be made to the county property tax assessment board of appeals, rather than the board consisting of the assessor, auditor, and treasurer.

*SEA 486, SECTION 4; Amends IC 14-27-8-4*

*Effective July 1, 2001*

- A petition requesting the establishment of a drainage maintenance and repair district may not be filed after June 30, 2001.

*SEA 486, SECTION 11; Amends IC 36-9-27-14*

*Effective July 1, 2001*

- If an even number of members of a joint drainage board results (for boards where land in more than two counties is affected), then the board must appoint an additional member who resides outside of the county with the drainage problem.

*SEA 486, SECTION 12; Amends IC 36-9-27-18*

*Effective July 1, 2001*

- The law on mutual drains also applies to private drains.

*SEA 486, SECTION 13; Amends IC 36-9-27-43*

*Effective July 1, 2001*

- The county drainage board may collect the drain assessment even though the unencumbered balance of the maintenance fund is equal to or greater than four times the estimated annual cost of periodic maintenance of the drain, if the drainage board conducts a public hearing at which they estimate what the unencumbered balance of the maintenance fund would be under certain terms.
- The annual assessment for the maintenance of the drain shall be omitted if the collection of the intended total amount of assessments would increase the unencumbered balance of the maintenance fund to equal or exceed eight times the estimated annual cost of periodic maintenance of the drain for which the fund was established.

*SEA 486, SECTION 14; Amends IC 36-9-27-45*

*Effective July 1, 2001*

- A maintenance fund for drains can also be used for study and evaluation, in addition to repair and maintenance, of a particular drain or combination of drains.

*SEA 486, SECTION 17; Amends IC 36-9-27.4-3*

*Effective July 1, 2001*

- The definition of “natural surface watercourse” is amended to refer to flows in a definable direction and channel.

*SEA 486, SECTION 18; Amends IC 36-9-27.4-12*

*Effective July 1, 2001*

- In the case of an alleged obstruction of a drain or natural surface watercourse, notice of a hearing must be mailed to each respondent with return receipt requested, rather than following the rules of trial procedure.

*SEA 486, SECTION 19; Amends IC 36-9-27.4-19*

*Effective July 1, 2001*

- The records of the county auditor, rather than the county recorder, shall be used to identify owners of tracts of land who benefit from a drain in order to share the cost of removing the obstruction to the drain.

## **PERMITS TO MAINTAIN DRAINAGE DITCHES**

*House Concurrent Resolution (HCR) 64; Adopted by the House, but not adopted by the Senate*

- The Legislative Council is urged to assign to the Natural Resources Study Committee the topic of the timely issuance of permits to maintain drainage ditches.
- The timely issuance of permits to maintain drainage ditches is vital to prevent loss of farmland, irreparable environmental damage, and situations that threaten human lives.

## **UPPER WABASH RIVER BASIN COMMISSION**

*HEA 2119, SECTION 7; Adds IC 14-30-4*

*Effective July 1, 2001*

- The Upper Wabash River Basin Commission is established as a separate municipal corporation.
- The upper Wabash River basin consists of the area located in Adams, Huntington, Jay and Wells Counties that is drained by the Wabash River, including tributaries of the Wabash River.
- If less than all of the executives of the counties elect to participate in the commission before January 1, 2002, then the commission expires on January 1, 2002.
- A political subdivision in a participating county may enter into a cooperative agreement with the commission and at least one other legal entity to authorize the commission to:
  - 1) develop a plan to control flooding and improve drainage in that part of the basin that is described in the cooperative agreement;
  - 2) organize and coordinate the installation of trails along the upper Wabash River basin through partnerships with other organizations; or
  - 3) develop and promote good soil and water conservation practices and procedures, including erosion control and bank stabilization.
- The commission shall give the public an opportunity to participate in the development of the plan by holding public hearings and accepting written recommendations.
- The plan must be approved by IDNR before the plan is implemented by a political subdivision.
- The commission may adopt rules to require that increased water runoff resulting from new construction be impounded on the construction site.

## **REVIEW OF LAKE MANAGEMENT AND LAKE PROTECTION PROGRAMS**

*Senate Concurrent Resolution (SCR) 25; Adopted by the Senate, but not adopted by the House*

- The Governor is urged to issue an executive order or other appropriate directive instructing the appropriate state agencies (IDEM, IDNR, ISDH) to review thoroughly all the various lake management and lake protection programs and responsibilities, with the intent of consolidating programs, projects, and personnel, where appropriate, into one identifiable lake management unit within an existing agency of government.
- The Governor is urged to invite a reasonable number of concerned citizens to participate in the review undertaken in response to the Governor's order or directive.



## Table of 2001 Legislation that Affects IDEM (by Enrolled Act Number)

Enrolled Act #	Subject(s)	Synopsis	Effective Date(s)
SEA 93	Registration of Soil Scientists	The Indiana Board of Registration for Soil Scientists is established to determine qualifications regarding registered professional soil scientists and registered associate soil scientists. Requirements for registration of soil scientists do not apply to state government. Requirements for individuals will be waived if specified requirements are met on July 1, 2001, including at least five years experience and if the individual has submitted reports dealing with environmental aspects of soil science that were acceptable to IDEM or other specified state agencies.	5/11/01 & 7/1/01
SEA 121	EQSC Re-establishment	The EQSC is re-established until December 31, 2005 with 18 members.	5/11/01
	Clean Manufacturing Technology Board Membership and Meeting Notices	A representative with expertise in occupational health and the workplace environment is added to the membership of the Clean Manufacturing Technology Board. Board members can serve more than two consecutive terms. The provision on publishing notices of meetings was removed.	7/1/01
SEA 152	Drainage Plans for Subdivisions	A person who lays out a subdivision of lots or lands outside a municipality is required to obtain the approval of the county drainage board of the plans and specifications for the drainage of the subdivision tract before proceeding with development of the subdivision.	7/1/01
SEA 160	Rural Economic Development Strategy	The Indiana Rural Development Council shall develop a rural economic development strategy for Indiana to assist Indiana's rural residents in improving their quality of life and to help promote successful and sustainable rural communities. The rural economic development strategy must include goals and recommendations concerning various issues, including land use, and infrastructure such as water, wastewater, and storm water. Beginning in 2002, the Indiana Rural Development Council must submit an annual report to the Legislative Council before October 1 of each year.	7/1/01
SEA 170	County Use of Money from the Hazardous Waste Disposal Tax	Two additional purposes that the county portion of the hazardous waste disposal tax (25% of \$11.50/ton) can be used for are as follows: 1) paying the costs associated with the construction or rehabilitation of a facility used for training county and local public health and public safety officers in the proper procedures for dealing with emergencies involving hazardous substances or hazardous waste; and 2) paying the costs associated with any other project that has identifiable environmental benefits. <i>Putnam and Porter Counties are the only two counties remaining that this provision applies to since they are the only two counties left with a hazardous waste disposal facility.</i> These two additional purposes that the county portion of the tax can be used for is excluded from applying to Allen County.	7/1/01

SEA 174	Technical Corrections	Twenty-one technical corrections were made that affect IDEM.	5/7/01, 7/1/01, & 1/1/02
SEA 226	Regulation of Iron and Steel Making Slag	The SWMB is prohibited from adopting rules to regulate the production, transportation, storage, processing, or legitimate use of slag generated by the production of iron or steel under SIC code 3312.	7/1/01
SEA 236	Additional Uses of the Supplemental Drinking Water and Wastewater Assistance Fund	The State Budget Agency is given the authority to make grants to political subdivisions from the Supplemental Drinking Water and Wastewater Assistance Fund for tasks associated with the development and preparation of: 1) long term control plans; 2) use attainability analyses; and 3) storm water management programs.	5/1/01 & 7/1/01
SEA 273	Tax Credit for Voluntary Remediation of a Brownfield	A state tax credit is allowed for voluntary remediation of a brownfield. This tax credit is available for tax years 2002 and 2003. A taxpayer is entitled to a credit equal to the lesser of \$100,000 or 10% multiplied by the qualified investment made by the taxpayer during the taxable year against the taxpayer's state tax liability for a taxable year if specified requirements are satisfied. The legislative body of a political subdivision shall determine whether to approve a tax credit. IDEM and IDFA shall certify costs incurred in a voluntary remediation as a qualified investment. The amount of tax credits may not exceed \$1 million in a state fiscal year unless IDFA determines that money is available for additional tax credits in a particular state fiscal year.	1/1/02
	Transfers to the Environmental Remediation Revolving Loan Fund	The term "subaccount" is replaced with "account" to correct a reference in this provision on the Environmental Remediation Revolving Loan Program.	7/1/01
SEA 321	IDEM Enforcement of Restrictive Covenants on Land	The commissioner of IDEM is given the authority to proceed in court to enforce a restrictive covenant approved by the commissioner and created in connection with any remediation, closure, cleanup, or corrective action under Title 13 in accordance with the terms of the covenant.	7/1/01
SEA 338	Barrett Law Installments	Property owners in a county or municipality will have the option to pay assessments in monthly or annual installments over a 10, 20, or 30 year period ( <i>currently, taxpayers only have the option of annual payments over a 10-year period</i> ). Property owners in a municipal improvement district will have the option to pay assessments in monthly or annual installments over a 1, 5, 10, 15, or 20 year period ( <i>currently, taxpayers only have the option of 1, 5, 10, 15, or 20 annual installments</i> ). This applies to assessments imposed after June 30, 2001. The municipal legislative body would provide that bonds issued in anticipation of the collection of assessments must be issued so as to mature between 10 and 30 years from the date of issuance ( <i>currently, bonds must be issued in 10-year series</i> ).	7/1/01

SEA 456	Mandatory Use of Gasohol in State Vehicles	A governmental body (except a political subdivision) is required to whenever possible purchase gasohol to fuel the gasoline fueled vehicles owned or operated by the governmental body. There are specified exemptions to this requirement.	7/1/01
SEA 464	Distributions to SWMDs From COIT and CAGIT	A resolution passed by a county fiscal body to approve a distribution to a SWMD under the laws concerning the COIT and the CAGIT may: 1) expire on a date specified in the resolution; or 2) remain in effect until the county fiscal body revokes or rescinds the resolution; rather than having to pass a resolution each year.	7/1/01
	Waste Management Services	The law that restricts SWMDs from providing waste management services ( <i>commonly referred to as the "349 requirements," referring to SEA 349, passed in 1996</i> ) does not apply to activities conducted as part of household hazardous waste collection and disposal projects. A resolution adopted by a SWMD board may authorize a SWMD to perform more than one solid waste recycling, collection, or disposal event if the duration of each event is not more than one day and all events will take place in one calendar year.	7/1/01
SEA 486	Local Drainage Boards	Various matters concerning local drainage boards, including filter strips, drainage maintenance and repair districts, members of a joint drainage board, private drains, drain assessments, uses of maintenance funds, and obstruction of a drain.	7/1/01 & 1/1/02
HEA 1001	State Biennial Budget	Appropriations from the state general fund and specific dedicated funds are made for each IDEM program for the next two state fiscal years (FY 2001-2002 and FY 2002-2003). \$1.5 million per fiscal year is transferred from the Department of Commerce Recycling Promotion and Assistance Fund to IDEM's State Solid Waste Management Fund. \$30 million is appropriated for the biennium to the Community Wastewater and Drinking Water (a.k.a. Supplemental Drinking Water and Wastewater Assistance Fund) from the Build Indiana Fund. \$4.5 million is transferred each fiscal year from the ELTF to the Environmental Remediation Revolving Loan Fund for remediation of petroleum contamination. \$500,000 is transferred each fiscal year from the ELTF to the Oil and Gas Environmental Fund for plugging abandoned oil wells. \$500,000 is appropriated for the biennium to the Lake Michigan Environmental Trust Fund from the Build Indiana Fund. \$5.5 million is appropriated for the biennium to the Little Calumet River Basin Commission from the Build Indiana Fund. \$2 million is appropriated for the biennium to the Clean Water Soil Conservation and Water Districts (a.k.a. Clean Water Indiana) from Build Indiana Fund.	7/1/01
HEA 1075	Commercial Fertilizer–Manure	Unmanipulated animal and vegetable manures are now included in the definition of “fertilizer material.” Unmanipulated animal and vegetable manures are now subject to the requirements of commercial fertilizers, including obtaining a registration and being subject to inspections from the State Chemist. Nonprocessed barnyard manure is no longer excepted from the definition of “commercial fertilizer.” Nonprocessed manure is excepted from the definition of “commercial fertilizer.”	7/1/01 & 7/1/02

HEA 1211	Regional Water and Sewer District Bidding	A board of trustees of a regional water or sewer district is required to follow specified procedures to competitively bid a public works project if the cost of the project is at least \$75,000. A board of trustees of a regional water or sewer district is required to follow set procedures for receiving quotes for a public works project if the cost of the project is at least \$25,000 but less than \$75,000.	7/1/01
HEA 1307	Liability of Board Members	Civil actions relating to acts taken by a board, a committee, a commission, an authority, or another instrumentality of a governmental entity ( <i>i.e. the state or a political subdivision</i> ) may be brought only against the board, the committee, the commission, the authority, or the other instrumentality of a governmental entity, rather than a member.	5/10/01
HEA 1342	Regional Sewer District Connection Exemption and Rates	A property owner is exempt from the requirement to connect to the district's sewer system for three years if specified conditions are met, including: 1) the property owner's septic tank soil absorption system was installed not more than five years before the district's sewer system's anticipated connection date; 2) the property owner's septic tank soil absorption system was new at the time of installation and was approved in writing by the local health department; or 3) the property owner provides to the district a certification from the local health department that the septic tank soil absorption system is functioning satisfactorily. If a district adopts an ordinance increasing sewer rates and charges at a rate that is greater than 5% per year, district freeholders may file a written petition to the district authority objecting to the rates and charges of the district.	7/1/01
HEA 1830	Industrial Waste Disposal	The provisions on "industrial waste" are repealed. IDEM is given the authority to modify a permit to prohibit the processing or disposal of specific solid waste at a solid waste disposal facility, or a solid waste processing facility. A generator that ships solid waste to a waste-to-energy facility must, before the facility accepts the solid waste, notify the facility before each shipment if the solid waste meets specified criteria in bulk quantities.	7/1/01
	Transportation of Waste	IC 13-20-4-8, that limited the use of a municipal waste collection and transportation vehicles to various types of waste, is repealed since the provision was ruled unconstitutional by the Federal Court several years ago as it was part of the package to ban backhauling of garbage in trucks that haul other products.	7/1/01
HEA 1852	Northwest Indiana Transportation Study Commission	The expiration date for the Northwest Indiana Transportation Study Commission is extended two years from November 2, 2001 to November 2, 2003. The duties of the commission regarding high speed rail service are removed.	7/1/01
HEA 1892	Storage and Transportation of Anhydrous Ammonia and Ammonia Solutions	A person who knowingly or intentionally stores or transports anhydrous ammonia (NH <sub>3</sub> ) or an ammonia solution in a container that does not, or with appurtenances that do not, conform to the requirements of a law governing the design, construction, location, installation, or operation of equipment for storage, handling, use, or transportation of anhydrous ammonia or an ammonia solution commits a Class A misdemeanor.	7/1/01

HEA 1892 (continued)	Dumping of Controlled Substance Waste	A person who dumps, discharges, discards, transports, or otherwise disposes of chemicals, knowing the chemicals were used in the illegal manufacture of a controlled substance or an immediate precursor, or waste, knowing that the waste was produced from the illegal manufacture of a controlled substance or an immediate precursor, commits dumping controlled substance waste, a Class D felony. It is not a defense in a prosecution that the person did not manufacture the controlled substance or immediate precursor.	7/1/01
HEA 1901	Mercury and Mercury Products	After July 1, 2003: 1) a mercury-added novelty may not be sold or distributed in Indiana; 2) only a pharmacist can provide a mercury fever thermometer to an individual; 3) a primary or secondary school may not use a mercury commodity, mercury compounds, or mercury-added instructional equipment and materials in the classroom; and 4) a person may not provide a mercury commodity to another person in Indiana unless certain conditions are met. IDEM and SWMDs shall (units may) implement education programs on the reuse and recycling of mercury. SWMDs shall (units may) implement mercury collection programs for the public and small businesses. The EQSC is directed to study and make recommendations regarding labeling and disposal of mercury products, notifications, restrictions on sales, and limitations on the use of elemental mercury before January 1, 2004.	7/1/01
HEA 1935	Shoreline Environmental Trust Fund	The Shoreline Development Commission is established. The Shoreline Environmental Trust Fund is established to provide a source of money for the following: the rehabilitation, redevelopment, and reuse of qualifying property by providing grants to political subdivisions to conduct various specified activities, including environmental assessment and remediation.	7/1/01
HEA 1967	Full Reimbursement to Fire Departments for Hazardous Material Emergency Actions	Full reimbursement (rather than excluding expenses that are normally incurred in responding to an emergency that do not involve hazardous materials) from the responsible party is available to a fire department that employs either only full-time paid members, or both full-time paid members and volunteer members, for expenses incurred in taking emergency action to a hazardous materials emergency.	4/18/01
HEA 2041	Underground Storage Tank Funds	IC 13-23-10, the chapter on the Underground Storage Tank Guaranty Fund and Program is repealed. Claims from the ELTF may not exceed \$2 million per occurrence. Assignees of the right to receive money from the ELTF, and subsequent owners of the property upon which tanks are located if the tanks were previously owned by eligible tank owners and operators, are allowed to receive money from the ELTF under certain circumstances. The limit on the amount of money that an owner or operator of up to 100 underground petroleum storage tanks may receive from the ELTF during a year is increased to \$2 million from \$1 million. The limit on the amount of money that an owner or operator of more than 100 underground storage tanks may receive from the ELTF during a year is increased to \$3 million from \$2 million. The civil penalty on an owner of a tank who fails to pay the tank registration fee is increased from not more than \$50 for each day, to not more than \$2,000 per tank for each year that passes after the fee becomes due and before the fee is paid.	6/1/01 & 7/1/01

HEA 2119	Upper Wabash River Basin Commission	The Upper Wabash River Basin Commission is established. The commission consists of the area located in Adams, Huntington, Jay and Wells Counties that is drained by the Wabash River, including tributaries of the Wabash River. A political subdivision in a participating county may enter into a cooperative agreement with the commission and at least one other legal entity to authorize the commission to: 1) develop a plan to control flooding and improve drainage in that part of the basin; 2) organize and coordinate the installation of trails along the basin; or 3) develop and promote good soil and water conservation practices and procedures.	7/1/01
HEA 2147	Rules Exempt from Sunset Provision	The automatic expiration of an administrative rule on January 1 of the 7 <sup>th</sup> year after the year in which the rule takes effect does not apply to the following: 1) a rule that is required to receive or maintain delegation, primacy; or approval for state implementation or operation of a program established under federal law; and 2) a rule that is required to begin or continue receiving federal funding for the implementation or operation of a program. The date for the automatic expiration of an administrative rule is extended each time that the rule is amended and that the amended rule expires on January 1 of the 7 <sup>th</sup> year after the year in which the amendment takes effect. IDEM is required to publish notice in the Indiana Register and provide responses to comments on these rules.	5/2/01 & 7/1/01

Resolution #	Subject	Synopsis	Resolutions do not go to the Governor for signature or have an effective date
SR 51	Guaranteed Energy Savings Contract Program	The Indiana Senate requests that the Legislative Council establish a study committee to find a method for establishing guidelines to clarify, for schools and local governments, the basis upon which guaranteed energy savings contracts are to be negotiated.	(not adopted by the Senate)*
SCR 25	Review of Lake Management and Lake Protection Programs	The Governor is urged to issue an executive order or other appropriate directive instructing the appropriate state agencies (IDEM, IDNR, ISDH) to review thoroughly all the various lake management and lake protection programs and responsibilities, with the intent of consolidating programs, projects, and personnel, where appropriate, into one identifiable lake management unit within an existing agency of government.	Adopted by the Senate (not adopted by the House)*
SCR 58	Review of State Funded Environmental Technical Assistance	The Legislative Council is urged to assign to the EQSC the task of reviewing all efforts that are fully or partially funded by the state related to environmental technical assistance with respect to resource recovery, pollution prevention, clean manufacturing, recycling, nonpoint source pollution, and other environmental issues.	(not adopted by the Senate or House)*

HR 123	Agricultural Marketing– Use of Ethanol in Fuel; Ban on Use of MTBE	The Legislative Council is urged to establish a committee to study agricultural marketing, including the use of ethanol, and a potential ban on the use of MTBE in petroleum products.	Adopted by the House
HR 125	Pesticide Use in Schools	In order to better protect the children of each public and nonpublic school, the State Chemist and a representative from each public and nonpublic school in Indiana should be directed to report to the Chairman and the members of the Education Committee of the Indiana House of Representatives no later than December 1, 2001, regarding the progress of each school toward the adoption of policies and procedures to prevent adverse effects of pesticide use in the schools.	Adopted by the House
HR 130	Guaranteed Energy Savings Contract Program	The Indiana House of Representatives requests that the Legislative Council establish a study committee to find a method for establishing guidelines to clarify, for schools and local governments, the basis upon which guaranteed energy savings contracts are to be negotiated.	Adopted by the House
HR 139	Corn Marketing Council– Production and Marketing of Ethanol	The Legislative Council is urged to establish a committee to study the Corn Marketing Council since it is vital to the economy of Indiana to find new uses for corn, such as the production and marketing of ethanol, and to provide corn farmers with information concerning new corn markets and technologies.	Adopted by the House
HCR 64	Permits to Maintain Drainage Ditches	The Legislative Council is urged to assign to the Natural Resources Study Committee the topic of the timely issuance of permits to maintain drainage ditches.	Adopted by the House (not adopted by the Senate)*
HCR 111	Study on Local Improvement Areas	The Legislative Council is urged to establish a committee to study the establishment of local public improvement areas.	Adopted by the House (not adopted by the Senate)*

SCR = Senate Concurrent Resolution

HCR = House Concurrent Resolution

HR = House Resolution

Note that resolutions do not have the effect of law. They are used to express the sentiment of the House and/or Senate. SCRs and HCRs need to be adopted by both the Senate and House. HRs need only to be adopted by the House.

\* Note that although a resolution was not adopted, it still may be acted upon.

# Outline of Technical Corrections in SEA 174 That Affect IDEM

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*Note: All of the following technical corrections are effective May 7, 2001, unless otherwise indicated.*

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## **LAND PROGRAM:**

- **Exceptions to demonstration of need for solid waste management facilities**

*SECTION 19; Amends IC 13-20-1-1*

Reformats to LSA sentence style.

- **Solid Waste Planning Advisory Council**

*SECTION 51; Noncode–Repealers*

*Effective July 1, 2001*

Repeals IC 13-21-2 on the Solid Waste Planning Advisory Council that expired on June 30, 1999.

- **Relocation of definition of “acute hazardous waste”**

*SECTION 10; Amends IC 13-11-2-1.5*

*SECTION 20; Amends IC 13-22-4-3.1*

*Effective January 1, 2002*

Relocates the actual definition language of “acute hazardous waste” from IC 13-22-4-3.1 to IC 13-11-2-1.5 to be consistent with LSA style of placing all definitions in the first article of a Title. Retains reference to definition in IC 13-22-4-3.1.

- **Hazardous waste facility site approval authority**

*SECTION 21; Amends IC 13-22-10-23*

Adds language to recognize the expiration of the sections that formerly authorized the hazardous waste facility site approval authority to grant certificates of environmental compatibility.

*SECTION 51; Noncode–Repealers*

*Effective July 1, 2001*

Repeals IC 13-22-10 sections 3, 4, and 6-22 on Hazardous or Low-Level Radioactive Waste Facility Site Approval that expired on July 1, 2000.

- **Transfer of funds from the Environmental Management Special Fund to the Voluntary Remediation Fund**

*SECTION 51; Noncode–Repealers*

*Effective July 1, 2001*

Repeals IC 13-25-5-22 that transferred \$250,000 from the Environmental Management Special Fund to the Voluntary Remediation Fund, and the reimbursement schedule that expired on August 1, 1998.

## **WATER PROGRAM:**

- **Relocation of definition of “degradation”**

*SECTION 11; Amends IC 13-11-2-50.5*

*SECTION 16; Amends IC 13-18-3-2(b)*

Relocates the actual definition language of “degradation” from IC 13-18-3-2(b) to IC 13-11-2-50.5 to be consistent with LSA style of placing all definitions in the first article of a Title. Retains reference to definition in IC 13-18-3-2(b).



- **Relocation of definition of “exceptional use water”**

*SECTION 12; Amends IC 13-11-2-72.5*

*SECTION 16; Amends IC 13-18-3-2(c)*

Relocates the actual definition language of “exceptional use water” from IC 13-18-3-2(c) to IC 13-11-2-72.5 to be consistent with LSA style of placing all definitions in the first article of a Title. Retains reference to definition in IC 13-18-3-2(c).

- **Relocation of definition of “outstanding national resource water”**

*SECTION 13; Amends IC 13-11-2-149.5*

*SECTION 16; Amends IC 13-18-3-2(d)*

Relocates the actual definition language of “outstanding national resource water” from IC 13-18-3-2(d) to IC 13-11-2-149.5 to be consistent with LSA style of placing all definitions in the first article of a Title. Retains reference to definition in IC 13-18-3-2(d).

- **Relocation of definition of “outstanding state resource water”**

*SECTION 14; Amends IC 13-11-2-149.6*

*SECTION 16; Amends IC 13-18-3-2(e)*

Relocates the actual definition language of “outstanding state resource water” from IC 13-18-3-2(e) to IC 13-11-2-149.6 to be consistent with LSA style of placing all definitions in the first article of a Title. Retains reference to definition in IC 13-18-3-2(e).

- **Outstanding state resource water designation**

*SECTION 49; Noncode (P.L.140-2000, SECTION 27)*

Adds “resource” to “...to designate as an outstanding state water...” so that it will read “...to designate as an outstanding state resource water...” so that it will be consistent with the rest of SEA 431 (P.L.140-2000).

- **Water quality standards**

*SECTION 17; Amends IC 13-18-3-2.4*

Removes an extraneous “(a)” since the section is not divided into subsections.

- **Total maximum daily load requirements**

*SECTION 50; Noncode (P.L.140-2000, SECTION 28)*

Adds “total” to “...with respect to the implementation of maximum daily load requirements...” so that it will read “...with respect to the implementation of total maximum daily load requirements...” so that it will be consistent with the rest of SEA 431 (P.L.140-2000).

- **Relocation of definition of “transient noncommunity water system”**

*SECTION 15; Amends IC 13-11-2-237.5*

*SECTION 18; Amends IC 13-18-11-1(a)*

Relocates the actual definition language of “transient noncommunity water system” from IC 13-18-11-1(a) to IC 13-11-2-237.5 to be consistent with LSA style of placing all definitions in the first article of a Title. Retains reference to definition in IC 13-18-11-1(a).

- **Regional Water and Sewer Districts**

*SECTION 22; Amends IC 13-26-2-6*

Inserts a missing “and.”

# How to Properly Reference State Legislation

Most of the time, you will probably reference just the Indiana Code (IC) citation, for example *IC 13-14-2-6*, but sometimes you may want to indicate which enrolled act the provision came from and what year it was passed, especially for noncode provisions.

There are various ways you can properly reference an enrolled act:

- 1) You can use the Senate Enrolled Act (SEA) number or House Enrolled Act (HEA) number as long as you include the year it passed, for example:

**SEA 321, passed in 2001**

You must include the year it passed because the enrolled act numbers are reused every year for different pieces of legislation.

- 2) You can use the public law (P.L.) number that corresponds with the enrolled act number, for example:

**P.L.61-2001**

The public law number already indicates the year the legislation passed so you do not need to repeat it.

- 3) You can use a combination of the enrolled act number and the public law number, for example:

**SEA 321 (P.L.61-2001)**

*\* Remember: Once legislation becomes a law, it is **no longer referred to as a "bill."** It becomes an enrolled act.*

**Table of Enrolled Act Numbers to Public Law Numbers for 2001**

Enrolled Act #:	Public Law #:		Enrolled Act #:	Public Law #:
SEA 93	P.L.244-2001		HEA 1001	P.L.291-2001
SEA 121	P.L.248-2001		HEA 1075	P.L.78-2001
SEA 152	P.L.97-2001		HEA 1211	P.L.22-2001
SEA 160	P.L.155-2001		HEA 1307	P.L.192-2001
SEA 170	P.L.101-2001		HEA 1342	P.L.193-2001
SEA 174	P.L.1-2001		HEA 1830	P.L.218-2001
SEA 226	P.L.257-2001		HEA 1852	P.L.140-2001
SEA 236	P.L.55-2001		HEA 1892	P.L.17-2001
SEA 273	P.L.109-2001		HEA 1901	P.L.225-2001
SEA 321	P.L.61-2001		HEA 1928	P.L.226-2001
SEA 338	P.L.62-2001		HEA 1935	P.L.31-2001
SEA 456	P.L.274-2001		HEA 1967	P.L.33-2001
SEA 457	P.L.174-2001		HEA 2041	P.L.14-2001
SEA 464	P.L.70-2001		HEA 2042	P.L.236-2001
SEA 486	P.L.276-2001		HEA 2119	P.L.35-2001
SEA 509	P.L.114-2001		HEA 2147	P.L.146-2001

*\* Note that resolutions do not have public law numbers.*

# How to Find the Most Current Version of a Law in the Indiana Code

## After the 2001 Legislative Session

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Now that the 2001 legislative session is over and new legislation has passed, we need to make sure we are using the most current version of a law.

All of Indiana Code Title 13 is also available on the Internet at: <http://www.state.in.us/legislative/ic/code/title13/>  
The site is maintained by the Indiana Legislative Services Agency and Access Indiana.

### When Using the “Indiana Code” Books (the red hard-covered books):

#### Version #1: To be used until the 2001 supplement to the Indiana Code is published

You will need to look in THREE places: the 1998 edition of the Indiana Code, the 2000 supplement to the Indiana Code, and the 2001 enrolled acts.

- 1<sup>st</sup> Look up the citation of the law in the 1998 edition of the Indiana Code, for example *IC 13-18-11-1*.
- 2<sup>nd</sup> Look up the same citation in the 2000 supplement to the Indiana Code. If that citation is there, then the 2000 version supersedes the 1998 version. If that citation is not there, then nothing was passed in 2000 that amends that citation.
- 3<sup>rd</sup> Look at the “IDEM 2001 Legislative Summary” to see if any enrolled acts were passed in the 2001 session that are related to the citation you are looking up. The versions in the 2001 enrolled acts supersede the 1998 edition and 2000 supplement.

#### Version #2: To be used after the 2001 supplement to the Indiana Code is published

You will need to look in TWO places: the 1998 edition of the Indiana Code plus the 2001 supplement to the Indiana Code. You will no longer need to look at the enrolled acts, except for noncode provisions.

- 1<sup>st</sup> Look up the citation of the law in the 1998 edition of the Indiana Code, for example: *IC 13-18-11-1*.
- 2<sup>nd</sup> Look up the same citation in the 2001 supplement of the Indiana Code. If that citation is there, then the 2001 version supersedes the 1998 version. If that citation is not there, then nothing was passed in 1999, 2000, or 2001 that amends that citation. Since the 2001 supplement is cumulative (contains 1999, 2000, and 2001 legislation), you will no longer need to look at the 1999 or 2000 supplement.

**Note:** The 1998 *edition* of the Indiana Code is a comprehensive collection of all laws from the 1998 legislative session and earlier. The 2001 *supplement* to the Indiana Code is a collection of new laws and amendments to existing laws from bills that were passed in the 1999, 2000, and 2001 legislative sessions. The 1998 edition plus the 2001 supplement together make-up the current set of Indiana laws. Noncode provisions (those with no IC citation) will not appear in the Indiana Code books but can be found in the enrolled acts, the Indiana Acts, and the Indiana Environmental Statutes book.

### When Using the “Indiana Environmental Statutes” Book (the soft-covered book published by IDEM):

#### Version #1: To be used until the 2001 edition is published

You will need to look in TWO places: the 2000 edition plus the 2001 enrolled acts.

- 1<sup>st</sup> Look up the citation of the law in the 2000 edition, for example *IC 13-18-11-1*.
- 2<sup>nd</sup> Look at the “IDEM 2001 Legislative Summary” to see if any enrolled acts were passed in the 2001 session that are related to the citation you are looking up. The versions in the 2001 enrolled acts supersede the 2000 edition.

#### Version #2: To be used after the 2001 edition is published

You will need to look in only ONE place: the 2001 edition of the “Indiana Environmental Statutes.” You will no longer need to look at the 2000 edition or the enrolled acts. Noncode provisions are included.

# The Indiana Code (IC) Citation Scheme

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## EXAMPLE:

IC 13-14-9-8(a)(1)(A)(ii)

title article chapter section subsection subdivision clause item

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|              |                                                                                        |
|--------------|----------------------------------------------------------------------------------------|
| TITLE:       | TITLE 13. ENVIRONMENT                                                                  |
| ARTICLE:     | ARTICLE 14. POWERS AND DUTIES OF THE DEPARTMENT OF ENVIRONMENTAL MANAGEMENT AND BOARDS |
| CHAPTER:     | Ch. 9. Rulemaking Procedures                                                           |
| SECTION:     | Sec. 8. Waiver of both first and second public comment periods                         |
| SUBSECTION:  | (a)                                                                                    |
| SUBDIVISION: | (1)                                                                                    |
| CLAUSE:      | (A)                                                                                    |
| ITEM:        | (ii)                                                                                   |